IN THE HIGH COURT OF UTTARANCHAL At NAINITAL.

Writ Petition No. 914 (M/S)2002
(Old No. 19003 of 1993)

Abdul Aziz and another. ... Petitioners.

Versus

The Board of Revenue, U.P. Allahabad,
And others. ... Respondents

.....

Hon'ble P.C. Verma, J.

This writ petition has been field by the petitioners with the prayer to issue a writ, direction or order in the nature of certiorari quashing the impugned orders dated 30.04.1988, 20.02.1991 and 12.05.1993 passed by Addl. S.D.M./Assistant Collector (Ist class), Kashipur, The Commissioner, (Admin) Kumaon Division, Nainital and The Board of Revenue, U.P. Allahabad, respectively.

Brief facts giving rise to the writ petition are that two suits were instituted under Section 229-B of the U.P. Z.A & L.R. Act by the respondent No.4 in the Trial Court. One in respect of village-Nijhera and the other in respect of Village- Rampura and the respondent No.4 claimed one-third share in the property in dispute. The petitioners have contested the suits and submitted that their names were recorded in the revenue records. The suits were barred under Section 49 of the C.H. Act and Section 34 of the Land Revenue Act. In support of his case the respondent No. 4 examined himself and one Jumma Khan while in support of their case, the petitioners have examined Abdul Aziz, Safdar Khan and Nayeem ahmad.

The Trial Court, while decreeing the suits, did not find any bar under Section 49 of the U.P. C.H. Act and

held that the respondent No. 4 namely, Adbul Shakoor is the son of Kareem Bux. The Trial Court declared the respondent No. 4 (in the writ petition) as co-landlord with the petitioners. Aggrieved by the order the petitioners have filed Appeal No. 105/91 of 1987-88 before the Commissioner, Kumaon Mandal who affirmed the order passed by the Addl. S.D.M./Assistant Collector, Kashipur. The petitioners moved II Appeal before the Board of Revenue, U.P. Allahabad who, after perusal of the orders passed by the Trial Court and I Appellate Court, dismissed the appeal. Hence, this writ petition.

I have herd learned Counsel for the both the parties and perused the orders passed by the Trial Court as well as the orders of the Appellate Court and that of II Appellate Court. All the Corrupts have recorded concurrent finding of facts. The matter is concluded by finding of pacts. I find no perversity and illegality in the orders passed by the Corrupts below and no interference is called for. There is no force in the writ petition. The orders impugned in the writ petition are affirmed. The writ petition is liable to be dismissed.

Accordingly the writ petition is dismissed being devoid of merits. No order as to costs.

(P.C. Verma, J.)

November 24, 2003:
NCM: